

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UMG RECORDINGS, INC., et al.,)	
)	
Plaintiffs,)	
)	
vs.)	
)	No. 1:17-cv-00365-LY
GRANDE COMMUNICATIONS)	
NETWORKS LLC,)	
)	
Defendant.)	

FIFTH ADVISORY IN RESPONSE TO THE COURT’S AUGUST 16, 2018 ORDER

Pursuant to the Court’s August 16, 2018 Order, Grande Communications Networks LLC (“Grande”) submits this fifth status update regarding the parties’ efforts to reach an agreement on Grande’s requests for financial information concerning revenues generated by the works at issue in this case. *See* ECF No. 139 at 1-2. Plaintiffs remain either unwilling or unable to provide a substantive response to Grande’s proposal for resolving this issue.

On August 27th, following a previous meet and confer by telephone, Grande provided a specific proposal for Plaintiffs’ consideration (the broad outlines of which were also discussed in the August 16th hearing before the Court). Under this proposal, Plaintiffs would provide sworn statements regarding per-download and per-stream royalties paid to Plaintiffs by certain online music services over 2014-2018, and streaming counts, download revenues, and synchronization licensing revenues over that same period for 20 songs selected by Grande.

As set out in Grande’s previous four status updates, the parties have been unable to reach a resolution because Plaintiffs have not responded to Grande’s proposal. *See* ECF Nos. 149, 160, 168, 178. In the interim, Plaintiffs have canceled the Rule 30(b)(6) depositions of certain

corporate designees whose testimony may be impacted by the requested information, on grounds that they are unwilling to produce the witnesses a second time when this issue is resolved.

Today, Plaintiffs' counsel advised that Plaintiffs "are actively working on evaluating and formulating a response," but did not provide a date certain by which Grande would receive that response.

Given Plaintiffs' repeated requests for more time, Grande is unable to determine whether the parties have reached an impasse. Grande also notes that this discrete issue does not affect the other discovery matters currently pending before the Court. As such, Grande would have no objection to the Court either (1) resolving this issue or (2) issuing its other discovery-related rulings while deferring consideration of this issue, subject to any subsequent updates from the parties. Grande will promptly advise the Court in the event the parties reach an agreement that resolves the dispute.

Dated: September 21, 2018.

By: /s/ Richard L. Brophy

Richard L. Brophy
Zachary C. Howenstine
Margaret R. Szewczyk
ARMSTRONG TEASDALE LLP
7700 Forsyth Blvd., Suite 1800
St. Louis, Missouri 63105
Telephone: 314.621.5070
Fax: 314.621.5065
rbrophy@armstrongteasdale.com
zhowenstine@armstrongteasdale.com
mszewczyk@armstrongteasdale.com

J. Stephen Ravel
Texas State Bar No. 16584975
J.R. Johnson
Texas State Bar No. 24070000
Diana L. Nichols
Texas State Bar No. 00784682
KELLY HART & HALLMAN LLP
303 Colorado, Suite 2000
Austin, Texas 78701
Telephone: 512.495.6429
Fax: 512.495.6401
Email: steve.ravel@kellyhart.com
jr.johnson@kellyhart.com
diana.nichols@kellyhart.com

Attorneys for Defendant GRANDE
COMMUNICATIONS NETWORKS LLC

CERTIFICATE OF SERVICE

The undersigned certifies that on September 21, 2018, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system pursuant to Local Rule CV-5(b)(1).

/s/ Richard L. Brophy
Richard L. Brophy